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EXTRAORDINARY

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प्राधिकार से प्रकाशित

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इस भाग में भिन्न पृष्ठ संख्या दी जाती है जिससे कि यह अलग संकलन के रूप में रखा जा सके।

Separate paging is given to this Part in order that it may be filed as a separate compilation

MINISTRY OF LAW, JUSTICE AND COMPANY AFFAIRS

(Department of Company Affairs)

NOTIFICATION

New Delhi, the 3rd February 1975

G.S.R. 43(E)—In exercise of the powers conferred by section 58A, read with section 642, of the Companies Act, 1956 (1 of 1956), the Central Government, in consultation with the Reserve Bank of India, hereby makes the following rules, namely:—

1. **Short title, commencement and application.**—(1) These rules may be called the Companies (Acceptance of Deposits) Rules, 1975.

(2) They shall come into force on the date of their publication in the Official Gazette.

(3) They shall apply to such companies as are not banking companies and are not also financial companies.

2. **Definitions.**—In these rules, unless the context otherwise requires,—

(a) "Act" means the Companies Act, 1956 (1 of 1956)

(b) "deposit" means any deposit of money with, and includes any amount borrowed by, a company, but does not include—

(i) any amount received from the Central Government or a State Government, or any amount received from any other source and whose repayment is guaranteed by the Central Government or a State Government, or any amount received from a local authority or a foreign Government or any other foreign citizen, authority or person;

- (ii) any amount received as a loan from any banking company or from the State Bank of India or any of its subsidiary banks or from a banking institution notified by the Central Government under section 51 of the Banking Regulation Act, 1949 (10 of 1949), or a corresponding new bank as defined in clause (d) of section 2 of the Banking Companies (Acquisition and Transfer of Undertakings) Act, 1970 (5 of 1970), or from a co-operative bank as defined in clause (bii) of section 2 of the Reserve Bank of India Act, 1934 (2 of 1934);
- (iii) any amount received as a loan from the Industrial Finance Corporation of India established under the Industrial Finance Corporation Act, 1948 (15 of 1948), or from a State Financial Corporation established under the State Financial Corporation Act, 1951 (63 of 1951), or from the Shipping Development Fund Committee constituted under section 15 of the Merchant Shipping Act, 1958 (44 of 1958) or from the Unit Trust of India established under the Unit Trust of India Act, 1963 (52 of 1963), or from the Industrial Development Bank of India established under the Industrial Development Bank of India Act, 1964 (18 of 1964), or from an Electricity Board constituted under the Electricity (Supply) Act, 1948 (54 of 1948) or from the Life Insurance Corporation of India constituted under section 3 of the Life Insurance Corporation Act, 1956 (31 of 1956), or from the Rehabilitation Industries Corporation of India Limited or the State Trading Corporation of India Limited or the Minerals and Metals Trading Corporation of India Limited or the Rural Electrification Corporation Limited or the Agricultural Finance Corporation Limited or the Industrial Reconstruction Corporation of India Limited or the Industrial Credit and Investment Corporation of India Limited or the National Industrial Development Corporation of India Limited or the Tamil Nadu Industrial Investment Corporation Limited or the State Industrial and Investment Corporation of Maharashtra Limited or from any other public financial institution which may be notified by the Central Government in this behalf in consultation with the Reserve Bank of India;
- (iv) any amount received by a company from any other company;
- (v) any amount received from an employee of the company by way of security deposit;
- (vi) any amount received by way of security or as an advance from any purchasing agent, selling agent, or other agents in the course of, or for the purposes of, the business of the company or any advance received against orders for the supply of goods or properties or for the rendering of any service;
- (vii) any amount received by way of subscriptions to any shares, stock, bonds or debentures (such bonds or debentures being secured by a charge or lien on the assets of the company), pending the allotment of the said shares, stock, bonds or debentures and any amount received by way of calls in advance on shares, in accordance with the articles of association of the company so long as such amount is not repayable to the members under the articles of association of the company;
- (viii) any amount received in trust or any amount in transit;
- (c) "depositor" includes any person who has given a loan to a company;
- (d) "free reserves" shall include all sums shown or published in the balance-sheet or in the profit and loss account of the company as being retained for any general or unspecified purpose and any statutory development rebate reserve created under sub-section (2) of section 10 of the Indian Income-tax Act, 1922 (11 of 1922), or under sub-section (3) of section 34 of the Income-tax Act, 1961 (43 of 1961), or any reserve for development allowances created under sub-section (3) of section 33A of the Income-tax Act, 1961 (43 of 1961) or under any other law for the time being in force.

3. Acceptance of deposits by companies.—(1) On and from the commencement of these rules,—

- (a) no company shall accept any deposit which is repayable on demand or on notice or repayable after a period, or
- (b) renew any such deposit accepted by it whether before or after such commencement,

except where such deposit is repayable after the expiry of six months or more from the date of acceptance or renewal of such deposit;

Provided that a company may, for the purpose of meeting any of its short-term requirements for funds accept or renew such deposits as are referred to in clause (i) of sub-section (2) for repayment earlier than six months from the date of deposit or renewal, as the case may be, subject to the condition that such deposits—

- (i) shall not exceed ten per cent of the aggregate of the paid-up share capital and free reserves of the company; and
 - (ii) are repayable not earlier than three months from the date of such deposit or renewal thereof, as the case may be.
- (2) On and from the commencement of these rules, no company shall accept—

- (i) any deposit against an unsecured debenture or any deposit from a shareholder (not being a deposit accepted by a private company from its shareholders) or any deposit guaranteed by any person who, at the time of giving such guarantee is a director of the company, if the amount of any such deposit together with the amount of such other deposits of all or any of the kinds of deposits referred to in this clause and outstanding on the date of acceptance or renewal of such deposit, exceeds fifteen per cent [including any deposit accepted under the proviso to sub-rule (1) of rule 3] of the aggregate of the paid-up share capital and free reserves of the company;

Provided that for the purpose of calculation of the amount of deposits outstanding on the date of such acceptance or renewal, any deposit guaranteed by a person who, at the time of giving such guarantee, was the managing agent or secretaries and treasurers of the company, and outstanding on such date shall be taken into account;

- (ii) any other deposit, if the amount of such deposit together with the amount of such other deposit other than any of the deposits referred to in clause (i) outstanding on the date of acceptance or renewal, exceeds twenty-five per cent. of the aggregate of the paid-up share capital and free reserves of the company.

(3) If, immediately before the commencement of these rules, the aggregate amount of deposits, of the nature referred to in clause (i) of sub-rule (2), accepted by a company before such commencement, exceeds the limit specified in the said clause (i), the company shall, on or before the 31st day of December, 1975, bring down the deposits to the limit aforesaid and for this purpose the company shall repay such deposits as may be necessary.

Explanation 1.—For the purposes of this rule, “deposit” shall not include any loan secured by the creation of a mortgage, charge or pledge of any of the assets of the company or part thereof, if the amount of such loan does not exceed twenty-five per cent. of the market value of the assets which constitute the security for the loan.

Provided that if the Central Government is satisfied that a mortgage or a pledge created by a company is not in the public interest it may declare that the loan creating such mortgage or pledge shall be deemed to be a deposit for the purposes of this rule.

Explanation 2.—For the purpose of this rule, in arriving at the aggregate of the paid-up share capital and free reserves of a company, there shall be deducted from the aggregate of the paid-up share capital and free reserves as appearing in the latest audited balance-sheet of the company, the amount of accumulated balance of loss, balance of deferred revenue expenditure and other intangible assets, if any, as disclosed in the said balance-sheet.

4. Form and particulars of advertisements.—(1) Every company intending to invite or accept deposits from the public, other than deposits from its directors, shall issue an advertisement for the purpose in a leading English Newspaper and in one vernacular newspaper circulating in the State in which the registered office of the company is situate.

(2) No company shall issue or allow any other person to issue or cause to be issued on its behalf any advertisement inviting deposits, unless such advertisement is issued on the authority and in the name of the Board of directors of the company and contains a reference to the conditions subject to which deposits shall be accepted by the company, the date on which the said Board of Directors has approved the text of advertisement, and the following informations, namely:—

- (a) name of the company;
- (b) the date of incorporation of the company;

- (c) the business carried on by the company and its subsidiaries with the details of branches or units, if any;
- (d) brief particulars of the management of the company;
- (e) names, addresses and occupations of the directors;
- (f) profits of the company, before and after making provision for tax, for the three financial years immediately preceding the date of advertisement;
- (g) dividends declared by the company in respect of the said years;
- (h) particulars relating to the company as on the date of the latest audited balance-sheet of the company (which date shall also be stated) under the following heads, namely:—
 - (i) paid-up share capital;
 - (ii) free reserves;
 - (iii) deposits;
 - (iv) any loan or advance obtained by the company and secured by a mortgage or pledge on the property of the company, including temporary loans as defined in section 293 of the Act;
 - (v) accumulated balance of loss, if any; and
 - (vi) an account of the proposed utilisation of the money to be received as deposits with details of projects, if any, to be financed out of the deposits.

(3) An advertisement issued in accordance with this rule shall be valid upto the end of the financial year in which it is issued, and, a fresh advertisement shall be made, in each succeeding financial year, for the acceptance of deposits during that financial year.

(4) No advertisement shall be issued by or on behalf of a company unless, on or before the date of its issue, there has been delivered to the Registrar for registration a copy thereof signed by every person who is named therein as a director.

Explanation.—For the purpose of this rule, the date of the issue of the newspaper in which the advertisement appears shall be taken as the date of issue of the advertisement.

(5) Every change in the particulars contained in the advertisement of which a copy has been filed with the Registrar in accordance with sub-rule (4) shall also be notified to the Registrar within thirty days from the day on which such change occurs.

5. Form of application for deposits.—(1) On and from the commencement of these rules, no company shall accept, or renew any deposit unless an application is made by the intending depositor for the acceptance of such deposit and such application contains a declaration by such person to the effect that the amount is not being deposited out of the funds acquired by him by borrowing or accepting deposits from any other person.

(2) The application referred to in sub-rule (1) shall be made in the form supplied by the company and such form shall be accompanied by a statement by the company containing all the particulars specified in sub-rule (2) of rule 4 and incorporating therein all changes in relation to such particulars up to the date on which the form is issued by the company.

6. Furnishing of receipt to depositors.—(1) Every company shall, on the acceptance or renewal of a deposit, furnish to the depositor or his agent, a receipt for the amount received by the company.

(2) The deposit receipt referred to in sub-rule (1) shall be signed by an officer of the company duly authorised by the company in this behalf and shall state the date of deposit, the name and address of the depositor, the amount received by the company as deposit, the rate of interest payable thereon and the date on which the deposit is repayable.

7. Registers of deposits.—(1) Every company accepting deposits shall keep at its registered office one or more registers in which there shall be entered separately in the case of each depositor the following particulars, namely:—

- (a) name and address of the depositor;
- (b) date and amount of each deposit;

- (c) duration of the deposit and the date on which each deposit is repayable;
- (d) rate of interest;
- (e) date or dates on which payment of interest will be made;
- (f) any other particulars relating to the deposit.

(2) The register or registers referred to in sub-rule (1) shall be preserved in good order for a period of not less than eight calendar years from the financial year in which the latest entry is made in the register.

8. General provisions regarding repayment of deposits.—(1) Where a company makes repayment of a deposit after the expiry of a period of six months from the date of such deposit but before the expiry of the period for which such deposit was accepted by the company, the rate of interest payable by the company on such deposit shall be reduced by one per cent. from the contracted rate and the company shall not pay interest at any rate higher than the rate as so reduced.

(2) In respect of any deposit referred to in column (1) of the Table below, no company shall pay interest at a rate exceeding the rate specified in the corresponding entry in column (2) of the said Table:—

TABLE

(1)	(2)
(i) if the deposit is repaid within a period of 14 days from the date of receipt	Nil
(ii) if the deposit is repaid after a period of 14 days but within a period of 45 days from the date of receipt.	2%
(iii) if the deposit is repaid after a period of 45 days but within a period of 90 days from the date of receipt.	2½%
(iv) if the deposit is repaid after a period of 90 days but within a period of six months from the date of receipt.	4%

Provided that nothing in this rule shall apply to a deposit the terms and conditions of which provide for earlier repayment of the deposit at the option of the company and the deposit is repaid earlier in pursuance of such deposit.

9. Power of Central Government to decide certain questions.—If any question arises as to whether these rules are or are not applicable to a particular company, such question shall be decided by the Central Government in consultation with the Reserve Bank of India.

10. Return of deposits to be filed with the Registrar.—Every company to which these rules apply, in each year, file with the Registrar, within thirty days from the last day of its financial year, a return containing—

- (a) the amount of deposits brought forward from the previous financial year;
- (b) the deposits accepted or renewed during the financial year;
- (c) the amount of deposits repaid during the financial year and the balance of deposits outstanding at the end of the financial year;
- (d) the total number of deposits repayable during the financial year, which remains unclaimed and the aggregate amount of such unclaimed deposits;
- (e) the total number of deposits repayable during the financial year, which, though claimed, have not been repaid by the company during the financial year and the aggregate amount of the deposits remaining so unpaid;
- (f) the reasons in relation to each depositor, for the non-payment of any deposit after the repayment thereof has become due;

Provided that the furnishing of such reasons shall not be necessary unless the aggregate amount of deposits remaining unpaid at the end of the financial year exceeds rupees five lakhs;

- (g) the steps which have been taken for the repayment of the deposits referred to in clause (f).

11. **Penalty.**—If a company or any other person contravenes any provision of these rules for which no punishment is provided in the Act, the company and every officer of the company who is in default or such other person shall be punishable with fine which may extend to five hundred rupees and where the contravention is a continuing one, with a further fine which may extend to fifty rupees for every day after the first during which the contravention continues.

12. **Repeal and saving.**—On the commencement of these rules, all rules, orders or directions in force in relation to any matter for which provision is made in these rules shall stand repealed, except as respects things done or omitted to be done before such repeal.

[No. F. 5/4/72-CL-V]

P. B. MENON, Jt. Secy.